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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/710,838	08/05/2004	SOLOMON ZAROMB		4837

7590 02/18/2010
SOLOMON ZAROMB
9S 706 WILLIAM DR
BURR RIDGE, IL 60527

EXAMINER

RAMDHANIE, BOBBY

ART UNIT	PAPER NUMBER
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1797

MAIL DATE	DELIVERY MODE
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02/18/2010

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/710,838	Applicant(s) ZAROMB ET AL.	
	Examiner BOBBY RAMDHANIE	Art Unit 1797	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 26 January 2010 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
- (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ They raise the issue of new matter (see NOTE below);
- (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
- The status of the claim(s) is (or will be) as follows:
- Claim(s) allowed: _____.
- Claim(s) objected to: _____.
- Claim(s) rejected: _____.
- Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☒ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

/Walter D. Griffin/
Supervisory Patent Examiner, Art Unit 1797

Continuation of 11. does NOT place the application in condition for allowance because: Applicant in the After Final Response has posed many questions, The Examiner will answer these questions where appropriate, so the Applicant understands why the Final Action is indeed proper.

On Page 2, Applicant states the following: "The assertion under Point 59 that our "amendment necessitated the new ground(s) of rejection" raises the following questions:

- i. Considering that the Claim Rejections under points 24-58 are substantially the same as those of the preceding Office Action of 6/26/2009 (Points 12-34), as brought out in our replies below, what "new ground(s) of rejection" was (or were) necessitated by our amendment?
- ii. Does an additional argument under Point 39 in support of a previous rejection constitute "new grounds of rejection," and why was that argument necessitated by our moving the words "from a volume of air" in claim 12 from one part of a sentence to the beginning of the same sentence?"

In the Non-Final Office Action mailed on 06/26/2009, there are listed Claim Objections along with 112 2nd & 103(a) Rejections pertaining to Applicant's Claims that were submitted with the RCE filing on 05/26/2009.

In response to this Office Action, Applicant amended the Claims to overcome the Claim Objections and 112 2nd Rejections (See Claims submitted on 08/31/2009. Claim 1 is amended (although no substantive), Claims 7 & 8 are amended (which are substantive), and indeed Claim 12 is also amended – which is also a substantial amendment. All of the substantive amendments change both the scope of the Claims and the invention. The new rejections are necessitated because of Applicant changing the scope of the claims and the invention.

As per Claim 12, the amendment did not only encompass "moving the words 'from a volume of air' in claim 12 from one part of a sentence to the beginning of the same sentence," but it also deleted a whole portion of the previously amended claim, For Applicants' examination Claim 12 from the submission on 05/18/2009 and 08/31/2009 are copied to further the understanding of the Applicant, demonstrate why the Final Action is proper, and why the new rejections are necessitated by Applicants' amendments to the Claims.

05/18/2009

Claim 12(currently amended): In a wet electrostatic precipitation-based apparatus, a A method of capturing for detection aerosolized particles as small as 0.01 micron in size from a volume of air which comprises passing said air through an electrostatic precipitation-based aerosol collector, wherein said collector comprises a vertical collector electrode tube and a co-axial spiked wire or rod-shaped discharge electrode.

08/31/2009

Claim 12: (currently amended). In a wet electrostatic precipitation-based apparatus, a A method of capturing for detection from a volume of air aerosolized particles as small as 0.01 micron in size from a volume of air which comprises passing said air through an a wet electrostatic precipitation-based aerosol collector, wherein said collector comprises a vertical collector electrode tube and a co-axial spiked wire or rod-shaped discharge electrode.

On Page 5, Applicant has stated that Applicant has provided an alleged "pioneering paper" of Zaromb et al. There is no reason why this paper was not presented earlier for the Examiner's consideration. This reference was not filed in a timely manner, and would require further consideration.

Also on Page 5, Applicants' do not understand the wording of, "capable of performing this function (See Re Point 12)." This section pertains to Applicant arguing that the wet electrostatic precipitation based apparatus of the combination of Bentley et al, Grindell and/or Hardt et al is incapable of performing the function as stated by Applicant of "substantially full wetting of the inner surface." Applicant argues piecemeal analysis of the Claim Rejection. Applicant up until this point has provided no scientific data or factual evidence to overcome this rejection or to show that the combination of reference fails to perform the "substantially full wetting of the inner surface."

On page 6, Applicant argues that there is no mention of an analyzer in conjunction with Figure 3 of Bentley et al, but then specifically points out that there is an analyzer. Applicant makes the statement that the "analyzer" which is not mentioned, "does not pertain to the collection and detection of hazardous particles via wet electrostatic precipitation." Applicant is arguing a position that is not supported even by Claim 1 of Applicants' instant application. Applicants' claims are broader in scope than what is being argued here.

On Pages 6-8, Applicants' continue to argue piecemeal analysis of the Rejection in the Office Action mailed on 12/02/2009.

The rejections mailed in the last Office Action on 12/02/2009, are maintained.